

Program D: Risk Litigation

Program Authorization: Act 448 of 1988; Act 107 of 1999; R.S. 36:701(D) and 704(F); R.S. 39:1533(B)

PROGRAM DESCRIPTION

The mission of the Risk Litigation Program (which is organizationally expressed as the Litigation Division) is to provide legal representation for the Office of Risk Management in the Division of Administration, the Self-Insurance Fund, the State of Louisiana, and its departments, agencies, boards and commissions and their officers, officials, employees, and agents in all claims covered by the State Self-Insurance Fund, and in all tort claims whether or not covered by the Self-Insurance Fund.

The goals of the Risk Litigation Program are:

1. Provide superior legal and professional services to the Office of Risk Management.
2. Continue to develop extensive expertise in the defense of public entities, officials, and employees, and strive to retain highly competent and professional litigation staff.
3. Continue to develop programs to educate agency policy makers to recognize and correct potential liability situations.

The state's tort liability exposure is far greater than in the private sector, both in dollar amount and the variety of claims asserted; examples include: road hazard liability; public health care provider liability; legislative liability; regulatory liability; and alleged liability for illegal and/or intentionally wrongful actions of elected officials. In FY 1997-98, the Office of Risk Management paid out \$98.5 million in judgments and settlements; in FY 1998-99, \$110.4 million.

The Litigation Division is divided into five specialized, substantive law sections: Civil Rights, General Liability, Medical Malpractice, Road Hazards and Workers' Compensation. The division has five regional offices (in Alexandria, Lafayette, Lake Charles, New Orleans, and Shreveport) that handle litigation filed in the geographical area covered by the regional offices.

- The Civil Rights Section represents state officials, employees, state agencies, and the State of Louisiana in damages action litigation brought on the basis of the Civil Rights Act of 1964, as amended; state statutes dealing with employment discrimination; and prisoner suits brought pursuant to R.S. 15:1171 et seq. Defended actions also include diverse suits as Americans with Disabilities Act claims, Age Discrimination Act claims, Pregnancy Discrimination Act claims, Fair Labor Standards Act claims, and Federal Individualized Education Act (IDEA) suits. As an adjunct to Civil Rights Act suits, the section also defends claims for attorney's fees.
- The General Liability Section provides legal defense to the state, state agencies, and employees against tort litigation in regard to claims of personal injuries or property damages that allegedly occurred on state property or were caused by a state employee or officer.
- The Medical Malpractice Section is primarily responsible for handling malpractice cases against public health care providers (as defined by R.S. 40:1299.39).
- The Road Hazards Section provides legal defense to the Louisiana Department of Transportation and Development (DOTD) in all lawsuits for personal injury, property damage, wrongful death and business losses attendant to DOTD operations and/or conditions of DOTD roads, bridges, or other property. The section typically handles lawsuits involving maintenance, design, construction, and operations of DOTD's roads and bridges.
- The Workers' Compensation Section is responsible primarily for handling litigated workers' compensation matters filed against the state, along with providing support for other related concerns such as advice to the Office of Risk Management regarding claims and handling of settlements, as appropriate. The section is also responsible for Jones Act and maritime matters filed by state employees as well as pursuit of subrogation claims that are referred by the Office of Risk Management.

OBJECTIVES AND PERFORMANCE INDICATORS

Unless otherwise indicated, all objectives are to be accomplished during or by the end of FY 2000-2001. Performance indicators are made up of two parts: name and value. The indicator name describes what is being measured. The indicator value is the numeric value or level achieved within a given measurement period. For budgeting purposes, performance indicator values are shown for the prior fiscal year, the current fiscal year, and alternative funding scenarios (continuation budget level and Executive Budget recommendation level) for the ensuing fiscal year (the fiscal year of the budget document).

The objectives and performance indicators that appear below are associated with program funding in the Base Executive Budget for FY 2000-01. Specific information on program funding is presented in the financial sections that follow performance tables.

1. (KEY) To better utilize the funds available to the Office of Risk Management for legal expenses by maintaining the percentage of risk litigation cases opened during the fiscal year that are handled in-house at 80%.

Strategic Link: This operational objective is an incremental step toward accomplishment of the program's Strategic Objective I.1: *To better utilize the funds available to the Office of Risk Management for legal expenses by increasing the percentage of all risk litigation cases handled in-house to 90% by June 30, 2003.*

LEVEL	PERFORMANCE INDICATOR NAME	PERFORMANCE INDICATOR VALUES					
		YEAREND PERFORMANCE STANDARD FY 1998-1999	ACTUAL YEAREND PERFORMANCE FY 1998-1999	ACT 10 PERFORMANCE STANDARD FY 1999-2000	EXISTING PERFORMANCE STANDARD FY 1999-2000	AT CONTINUATION BUDGET LEVEL FY 2000-2001	AT RECOMMENDED BUDGET LEVEL FY 2000-2001
K	Percentage of new risk litigation cases handled in-house	90%	78%	80%	80%	80%	80%

Explanatory Note: For risk litigation performance history, see the following trend tables.

GENERAL PERFORMANCE INFORMATION: RISK LITIGATION, ALL CASES															
FISCAL YEAR	ALL CASES IN LITIGATION			CASES ASSIGNED TO PRIVATE CONTRACT ATTORNEYS					CASES HANDLED BY THE LITIGATION DIVISION						
	NUMBER OF CASES	LEGAL FEES AND EXPENSES (In \$ Millions)	AVERAGE COST PER CASE	NUMBER OF CASES	PERCENT OF TOTAL CASES	LEGAL FEES AND EXPENSES (In \$ Millions)	PERCENT OF TOTAL FEES	AVERAGE COST PER CASE	NUMBER OF CASES	PERCENT OF TOTAL CASES	TOTAL EXPENDI- TURES (In \$ Millions)	PERCENT OF TOTAL FEES	AVERAGE COST PER CASE	NUMBER OF TRIAL ATTOR- NEYS	AVERAGE CASE LOAD
89-90	5,057	\$13.44	\$2,658	2,364	47%	\$10.83	81%	\$4,581	2,693	53%	\$2.61	19%	\$969	30	89.8
90-91	5,947	\$16.56	\$2,785	3,755	63%	\$13.65	82%	\$3,635	2,192	37%	\$2.91	18%	\$1,328	30	73.1
91-92	6,823	\$20.06	\$2,940	4,647	68%	\$17.10	85%	\$3,680	2,176	32%	\$2.96	15%	\$1,360	30	72.5
92-93	7,000	\$22.83	\$3,261	4,000	57%	\$20.13	88%	\$5,033	3,000	43%	\$2.70	12%	\$900	30	100.0
93-94	7,430	\$22.83	\$3,073	3,501	47%	\$19.63	86%	\$5,607	3,929	53%	\$3.20	14%	\$814	45	87.3
94-95	6,708	\$14.90	\$2,221	2,343	35%	\$9.50	64%	\$4,055	4,365	65%	\$5.40	36%	\$1,237	68	64.2
95-96	7,250	\$16.79	\$2,316	2,000	28%	\$8.50	51%	\$4,250	5,250	72%	\$8.29	49%	\$1,579	69	76.1
96-97	6,241	\$17.64	\$2,826	1,490	24%	\$9.74	55%	\$6,537	4,751	76%	\$7.90	45%	\$1,663	69	68.9
97-98	6,281	\$16.20	\$2,579	1,612	26%	\$7.98	49%	\$4,950	4,669	74%	\$8.22	51%	\$1,761	71	65.8
98-99	6,169	\$17.12	\$2,775	1,229	20%	\$8.08	47%	\$6,574	4,940	80%	\$9.04	53%	\$1,830	71	69.6

GENERAL PERFORMANCE INFORMATION: RISK LITIGATION, NEW CASE ASSIGNMENTS					
FISCAL YEAR	TOTAL NUMBER OF NEW CASES ASSIGNED	NUMBER OF NEW CASES ASSIGNED TO CONTRACT ATTORNEYS	NUMBER OF NEW CASES ASSIGNED TO LITIGATION ATTORNEYS	PERCENTAGE OF NEW CASES ASSIGNED TO CONTRACT ATTORNEYS	PERCENTAGE OF NEW CASES ASSIGNED TO IN-HOUSE ATTORNEYS
93-94	1,830	142	1,688	7.8%	91.2%
94-95	1,878	243	1,635	12.9%	87.1%
95-96	2,189	209	1,980	9.6%	90.5%
96-97	1,860	213	1,647	11.5%	88.6%
97-98	1,862	266	1,596	14.3%	85.7%
98-99	1,541	336	1,205	21.8%	78.2%

2. (SUPPORTING) To provide 15 hours of professional education and training opportunities for attorneys, with particular emphasis on specialized litigation training and education.

Strategic Link: This operational objective is related to the program's Strategic Objective II.2: *Provide professional education and training opportunities for attorneys and staff with particular emphasis on specialized litigation training and education by the year 2003.*

LEVEL	PERFORMANCE INDICATOR NAME	PERFORMANCE INDICATOR VALUES					
		YEAREND PERFORMANCE STANDARD FY 1998-1999	ACTUAL YEAREND PERFORMANCE FY 1998-1999	ACT 10 PERFORMANCE STANDARD FY 1999-2000	EXISTING PERFORMANCE STANDARD FY 1999-2000	AT CONTINUATION BUDGET LEVEL FY 2000-2001	AT RECOMMENDED BUDGET LEVEL FY 2000-2001
S	Number of continuing legal education hours provided ¹	4	29	15	15	15	15
S	Percentage of required continuing legal education hours provided	Not applicable ²	190%	100%	100%	100%	100%

¹ The Louisiana Bar Association requires 15 hours of continuing legal education for attorneys licensed to practice law in Louisiana. Within the 15 hours, one hour of ethics and one hour of professionalism is required.)

² This was a new performance indicator for FY 1999-00. It did not appear under Act 19 of 1998 and has no performance standard for FY 1998-99.

RESOURCE ALLOCATION FOR THE PROGRAM

	ACTUAL 1998-1999	ACT 10 1999- 2000	EXISTING 1999- 2000	CONTINUATION 2000 - 2001	RECOMMENDED 2000 - 2001	RECOMMENDED OVER/(UNDER) EXISTING
MEANS OF FINANCING:						
STATE GENERAL FUND (Direct)	\$0	\$0	\$0	\$0	\$0	\$0
STATE GENERAL FUND BY:						
Interagency Transfers	0	0	0	0	0	0
Fees & Self-gen. Revenues	9,038,437	10,544,492	10,604,242	10,911,175	10,702,672	98,430
Statutory Dedications	0	0	0	0	0	0
Interim Emergency Board	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
TOTAL MEANS OF FINANCING	\$9,038,437	\$10,544,492	\$10,604,242	\$10,911,175	\$10,702,672	\$98,430
EXPENDITURES & REQUEST:						
Salaries	\$6,357,755	\$7,272,093	\$7,660,485	\$7,948,096	\$7,662,405	\$1,920
Other Compensation	53,127	141,250	65,000	65,000	65,000	0
Related Benefits	1,091,528	1,287,214	1,317,777	1,357,324	1,370,854	53,077
Total Operating Expenses	792,513	1,311,986	1,021,215	913,421	1,012,516	(8,699)
Professional Services	19,170	65,000	70,125	21,803	21,375	(48,750)
Total Other Charges	271,840	61,050	53,640	182,931	147,922	94,282
Total Acq. & Major Repairs	452,504	405,899	416,000	422,600	422,600	6,600
TOTAL EXPENDITURES AND REQUEST	\$9,038,437	\$10,544,492	\$10,604,242	\$10,911,175	\$10,702,672	\$98,430
AUTHORIZED FULL-TIME						
EQUIVALENTS: Classified	0	0	0	0	0	0
Unclassified	180	180	180	180	180	0
TOTAL	180	180	180	180	180	0

SOURCE OF FUNDING

This program is funded with Fees and Self-generated Revenues. Fees and Self-generated Revenues are derived from the Office of Risk Management for investigative and legal services.

ANALYSIS OF RECOMMENDATION

GENERAL FUND	TOTAL	T.O.	DESCRIPTION
\$0	\$10,544,492	180	ACT 10 FISCAL YEAR 1999-2000
			BA-7 TRANSACTIONS:
\$0	\$59,750	0	Carryforward BA-7 for Acquisitions and Professional Services
\$0	\$10,604,242	180	EXISTING OPERATING BUDGET – December 3, 1999
\$0	\$329,519	0	Unclassified State Employees Merit Increases for FY 2000-2001
\$0	\$0	0	Unclassified State Teacher Merit Increases for FY 2000-2001
\$0	\$416,000	0	Acquisitions & Major Repairs
\$0	(\$405,000)	0	Non-Recurring Acquisitions & Major Repairs
\$0	(\$59,750)	0	Non-Recurring Carry Forwards
\$0	(\$155,695)	0	Salary Base Adjustment
\$0	(\$171,640)	0	Attrition Adjustment
\$0	(\$1,920)	0	Salary Funding from Other Line Items
\$0	\$6,600	0	Other Adjustments - Data Processing Equipment for the new Human Resource equipment
\$0	\$140,316	0	Other Adjustments - Additional Operating Services for the Division
\$0	\$10,702,672	180	TOTAL RECOMMENDED
\$0	\$0	0	LESS GOVERNOR'S SUPPLEMENTARY RECOMMENDATIONS
\$0	\$10,702,672	180	BASE EXECUTIVE BUDGET FISCAL YEAR 2000-2001
			SUPPLEMENTARY RECOMMENDATIONS CONTINGENT ON SALES TAX RENEWAL:
\$0	\$0	0	None
\$0	\$0	0	TOTAL SUPPLEMENTARY RECOMMENDATIONS CONTINGENT ON SALES TAX RENEWAL

			SUPPLEMENTARY RECOMMENDATIONS CONTINGENT ON NEW REVENUE:
\$0	\$0	0	None
\$0	\$0	0	TOTAL SUPPLEMENTARY RECOMMENDATIONS CONTINGENT ON NEW REVENUE
\$0	\$10,702,672	180	GRAND TOTAL RECOMMENDED

The total means of financing for this program is recommended at 100.9% of the existing operating budget. It represents 98.1% of the total request (\$10,911,175) for this program. At the recommended level of funding this program should be able to provide the same level of services.

PROFESSIONAL SERVICES

\$21,375	Educational Training and other professional services deemed appropriate and necessary to carry out the mission of the Department
\$21,375	TOTAL PROFESSIONAL SERVICES

OTHER CHARGES

\$30,940	Salary and Related Benefits for a purchasing clerk
\$22,700	Temporary staff, taking dispositions, court reporters, etc.
\$53,640	SUB-TOTAL OTHER CHARGES
	Interagency Transfers:
\$94,282	Maintenance of State Buildings
\$94,282	SUB-TOTAL INTERAGENCY TRANSFERS
\$147,922	TOTAL OTHER CHARGES

ACQUISITIONS AND MAJOR REPAIRS

\$105,000	Library Reference Materials
\$6,600	Data Processing Equipment for the Human Resource System
\$311,000	Replacement Office and Data Processing Equipment
\$422,600	TOTAL ACQUISITIONS AND MAJOR REPAIRS